

## REMARKS

Claims 9, 13-18, 20-22, 24-31, 35-40, 42-44, 46-52, 61 and 63-65, as amended, and new claims 66-68 are pending in this application for the Examiner's review and consideration. Claims 9 and 31 have been amended in substance to incorporate the features recited in claims 12 and 19 and in claims 34 and 41, respectively, i.e., that the C<sub>14</sub>-C<sub>18</sub> fatty acids and the C<sub>20</sub>-C<sub>22</sub> fatty acids include  $\omega$ -3 and  $\omega$ -6 fatty acids, optionally in combination with  $\omega$ -9 fatty acids, wherein the  $\omega$ -6 fatty acids and the  $\omega$ -3 fatty acids are present in the emulsion composition in a ratio of about 7:1 to about 1:1, support for which can also be found in the specification, i.e., paragraphs [0027], [0028], and [0035] of the published application. Claim 66 has been added to cover a preferred embodiment as supported by claim 61, while new claims 67-68 are further embodiments based on the revised language of claims 1 and 31. Accordingly, claims 12, 19, 34, and 41 have been cancelled. Claims 20 and 42 have been amended to correct dependency. Claims 9, 20, 31, and 42 have been further amended to correct typographical errors. As no new matter has been introduced by any one of these changes or additions, they should all be entered at this time.

### ***Claim Rejections – 35 USC § 103***

Claims 9, 12-18, 21-22, 27-28, 31, 34-40, 43-44, 49-50, 61 and 64-65 have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over European Patent Application No. 271,909 (referred to hereafter as "EP '909"); or European Patent No. 265,699 (referred to hereafter as "EP '699"); or European Patent No. 965,578 (referred to hereafter as "EP '578") in view of Klang et al. (Drug Targeting and Delivery 9: 119-152, 1998; referred to hereafter as "Klang"). The Office Action alleges that EP '909 teaches structured triglycerides that can be used in parenteral nutrition emulsions wherein the fatty acid residues are selected from C<sub>6-12</sub>, C<sub>14-18</sub>, and C<sub>18-22</sub> fatty acids, and the fatty acids are present in the amounts which read on claims 13-18. The Office Action further alleges that EP '699 teaches structured triglycerides that can be used in parenteral nutrition emulsions wherein the fatty acid residues are selected from C<sub>6-12</sub>, C<sub>14-18</sub>, and C<sub>18-22</sub> fatty acids and the 2 position of the triglyceride contains C<sub>8-12</sub> fatty acid residues. The Office Action further alleges that EP '578 teaches structured triglycerides that can be used in parenteral nutrition emulsions wherein the fatty acid residues are selected from C<sub>6-12</sub>, C<sub>14-18</sub>, and C<sub>18-22</sub> fatty acids; the structured triglycerides are present in the amounts which read on claims 21-

22; and the composition contains other components which read on claims 27-28. The Office Action alleges that Klang discloses reducing the droplet size of the emulsion below 1  $\mu\text{m}$ . The Office Action alleges that from the teachings of the references, one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention.

Applicant respectfully submits that the cited references, either alone or in combination, do not teach or suggest the presently claimed invention. In particular, EP '909 relates to a triglyceride composition useful as an active ingredient of nutrient infusions, and agents for preventing and treating arteriosclerosis or hyperlipemia. EP '699 relates to fats and oils having a superior digestibility and absorptivity, which fats and oils are composed of a triglyceride having a  $\text{C}_8$  to  $\text{C}_{14}$  fatty acid residue at the 2-position of the triglyceride and residues of  $\text{C}_{18}$  or higher fatty acids at the 1- and 3-positions thereof. EP '578 relates to a triglyceride and a composition containing that triglyceride, which triglyceride has a saturated fatty acid of 16-18 carbon atoms at the position 2, and at the position 1 and/or 3 an unsaturated fatty acid, wherein at least one of the unsaturated fatty acid is  $\omega$ -6,  $\omega$ -9 or  $\omega$ -3 unsaturated fatty acid. Klang relates to submicron water-in-oil emulsions for intravenous administration useful as colloidal carriers for drugs.

Solely for the purpose of advancing the prosecution of the present application, and without acquiescing to the correctness of the rejection, claims 9 and 31 have been amended to incorporate in substance features from claims that are not rejected over EP '909, EP '699, EP '578, and Klang, i.e., claims 19 and 41, respectively, which recite that the  $\omega$ -6 fatty acids and the  $\omega$ -3 fatty acids are present in the parenteral nutrition emulsion composition in a ratio of about 7:1 to about 1:1. Accordingly, claims 19 and 41 have been cancelled. Moreover, the features recited in claims 12 and 34, in substance, have been incorporated in claims 9 and 31, respectively. Accordingly, claims 12 and 34 have been canceled as well. Thus, claim 9 and its dependent claims 13-18, 20-22, 24-30, as well as new claims 66-67 and claim 31 and its dependent claims 35-40, 42-44, 46-52, 61, 63-65, and new claim 68 are patentable over the cited references. Therefore, the rejection has been overcome and should be withdrawn.

Claims 19-20, 29-30, 41-42, 51-52, and 64 have been objected to as allegedly being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As explained above, the base claims 9 and 31, from which claims 20, 29-30, 42, 51-52, and 64 depend are now allowable. Therefore, the objection has been overcome and should be withdrawn.

In view of the above, it is respectfully submitted that all current rejections have been overcome and should be withdrawn. Accordingly, the entire application is believed to be in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of this application.

Respectfully submitted,

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Date

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